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TO RUEHC/SECSTATE WASHDC PRIORITY 0659
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INFO RUEHDM/AMEMBASSY DAMASCUS 0364
RUEHLO/AMEMBASSY LONDON 1077
RUEHLA/AMCONSUL BARCELONA 3989

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SENSITIVE
SIPDIS

STATE FOR NEA/ELA A.MONZ AND EUR/WE SZERDECKI/ESAMSON
STATE ALSO FOR EEB/ESC/TFS C.BACKEMEYER
COMMERCE FOR BIS: T.CHRISTINO, J.SONDERMAN, J.JUST

E.O. 12958: N/A

TAGS: [EAIR](#) [ETRD](#) [ETTC](#) [PGOV](#) [PREL](#) [SP](#) [SY](#)

SUBJECT: FOLLOW-UP WITH GOVERNMENT OF SPAIN RE ORION AIR

REF: A. STATE 49690

[B](#). MADRID 468

[C](#). MADRID 462

[D](#). STATE 47933

[E](#). MADRID 439

[F](#). MADRID 413

[G](#). SECSTATE 41098

[1](#). (SBU) Econoff met May 19 with Jose Alberto Plaza, Director General for International Trade in Services at the Ministry of Industry, Tourism, and Trade (MITYC); Enrique Feas, MITYC Deputy Director for Trade and Investments, who handles Middle East countries; Inigo Febrel, MITYC Deputy Director General for EU Trade Policy; and Jose Luis Rodriguez de Colmenares, MFA Deputy Director General for Bilateral Economic Relations with Europe and OECD Countries, to discuss the Orion Air matter and request GOS assistance. Econoff reviewed the history of post's conversations and meetings with Orion Air, including ref G demarche, subsequent conversations, and delivery per ref D of Temporary Denial Order (TDO) after Orion sent the first aircraft to the Syrian company and expressed the intention of sending the second imminently. Noting that to the best of his knowledge, the second aircraft had not been sent to Syria - the GOS officials also thought it had not - econoff requested GOS assistance to prevent Orion from sending the second aircraft.

[2](#). (SBU) Director General Plaza Tejera replied that the GOS had no authority to stop Orion from sending the aircraft. He noted that Orion and Syrian Pearl has entered into a standard service contract (wet lease) that he stated was not deemed an export under EU law or regulations. There followed some discussion of what constitutes an export under the U.S. Export Administration Regulations (EAR), with econoff calling attention to various parts of the Regulations, especially those related to aircraft and vessels. Econoff reiterated that post had urged Orion to seek an advisory opinion from Commerce's Bureau of Industry and Security (BIS) before sending the aircraft. The GOS officials also noted that Spain, unlike the U.S., does not have a general prohibition on exports to Syria. That said, they could talk further with Orion and attempt to persuade it not to send the second aircraft.

[3](#). (SBU) The GOS officials characterized Orion as a victim of its own ignorance of foreign laws and stated that by the time Embassy first approached Orion, the company had already signed the contract with Syrian Pearl and was committed to delivering the planes. In addition, they noted that absent the contract with Syrian Pearl, Orion was likely to go bankrupt and lay off all its employees. Citing the EAR's Administrative Enforcement Proceedings, IV.B., Denial of Export Privileges and Exclusion from Practice, which states

that BIS may consider adverse economic consequences of the order, Deputy DG Febrel asked if it might not be possible to suspend the TDO, which is apparently already causing Orion problems. In this vein, the GOS officials asked if the two governments, working together, might not be able to arrive at some mutually satisfactory resolution of the problem, some sort of compromise.

¶4. (SBU) Econoff responded that we would welcome continued conversations with the GOS and would like to find a solution but that as a first step, Orion Air should recall the first aircraft from Syria and commit not to send the second one to the Syrian company. While undertaking to consult further with State and Commerce, he expressed serious doubt that any agreement could be reached that did not include these conditions. The GOS officials expressed concern that Orion would expect the GOS to defend it in its problems with the USG, and also raised the spectre of negative publicity if the company did go bankrupt. Nevertheless, they said they would urge Orion not to proceed with delivery of the second aircraft, while again expressing hope that some solution could be found.

¶5. (SBU) Comment: The GOS officials appear sincere in their interest to engage further with us on this issue, but, like Orion Air itself, appear to hold out hope that the company can somehow fulfill its contract with Syrian Pearl and still avoid trouble with the USG, which appears to be an unrealistic scenario. End Comment.
DUNCAN